

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: Jeffry Jovan Philyaw and David Kent Mathews
Application No.: 09/382,372
Confirmation No.: 5133
Filed: August 24, 1999
Group No.: 2141
Handling Attorney: Paul Shanoski
For: METHOD AND APPARATUS FOR MATCHING A USER'S
 USE PROFILE IN COMMERCE WITH A BROADCAST

Mail Stop PETITIONS

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Mr. Shanoski:

RENEWED PETITION UNDER 37 C.F.R. 1.137(a)

This is a response to the decision dated June 14, 2007, dismissing the original "Petition Under 37 C.F.R. 1.137(a)," filed March 14, 2007. The petition was dismissed because it lacked a copy of the docket record where the nonreceived Office communication would have been entered had it been timely received and docketed.

Accordingly, Applicant submits herewith a copy of the docket record for the above-identified application.

RENEWED PETITION UNDER 37 C.F.R. 1.137(a)

S/N: 09/382,372

Further, Applicant respectfully submits the Declarations of the following staff: Beverley Collette, Carole Rasmussen and Alice Goetsell stating the steps involved in receiving, processing and docketing incoming mail. Applicant respectfully requests the reconsideration and granting of the renewed petition.

No petition fee is due in this matter and, thus, none is included. Please charge any deficiency or credit any overpayment to deposit account number 20-0780/PHLY-24,738 of HOWISON & ARNOTT, L.L.P.

Respectfully submitted,
HOWISON & ARNOTT, L.L.P.
Attorneys for Applicants

/Gregory M. Howison, Reg. # 30,646/
Gregory M. Howison
Registration No. 30,646

GMH/dd
P.O. Box 741715
Dallas, Texas 75374-1715
Tel: 972-479-0462
Fax: 972-479-0464
July 9, 2007

YOUR# 124738

PRINTED ON: 6/21/2007

COUNTRY	US	UNITED STATES	TITLE	PRIOR	9/11/1998	
NEW/CON	CIP	SERIAL# 09/382,372	METHOD AND APPARATUS FOR MATCHING A USER'S USE PROFILE IN COMMERCE WITH A BROADCAST	MAIL	8/24/1999	
RELATED	24669	PATENT#		FILE	8/24/1999	
TYPE	UTL	STATUS		PENDING	PUBL	
CLIENT	PHLY	DIGITAL CONVERGENCE CORPORATION		1	CREF	
AGENT			AREF	1ST	9/11/1998	
				EXP	9/11/2018	

ID	O	ACTION	BASE	DUE IN	DUE	EXTNS	FINAL	EXT	RESPONSE	CALL UP	1	2	P
DL	N	PRIORITY DEADLINE	9/11/1998	12M	9/11/1999		9/11/1999	0	8/24/1999	1M	Y	Y	N
G2	N	MISSING PARTS (2 MO)	9/8/1999	2M	11/8/1999	4	3/8/2000	0	9/27/1999	0M	Y	Y	N
DS	N	INF DISCLOSURE STMT	8/24/1999	3M	11/24/1999		11/24/1999	0	9/27/1999	0M	Y	Y	N
FS	N	FILG RCPT STATUS CHK	8/24/1999	3M	11/24/1999		11/24/1999	0	9/24/1999	0M	Y	Y	N
RCVD 2ND FR 10/18/99.													
AS	N	ASSIGNMENT	8/24/1999	6M	2/24/2000		2/24/2000	0	1/4/2000	0M	Y	Y	N
NC	N	NOTIFY CLIENT OF FF	8/24/1999	10M	6/24/2000		6/24/2000	0	6/21/2000	0M	Y	Y	N
SENT LTR 5/23.													
CE	N	CONVENTION ENDS	8/24/1999	12M	8/24/2000		8/24/2000	0	8/23/2000	2M	Y	Y	N
FILING PCT, TAIWAN, HONG KONG AND PHILIPPINES.													
ID	N	IDS W/ PTO-1449	9/27/2000	0M	9/27/2000		9/27/2000	0	10/3/2000	0M	Y	Y	N
10/10: got pcard													
PR	Y	PRELIM AMENDMENT	9/28/2000						9/28/2000				N
10/7: pc rcvd													
FM	N	FORMAL DRAWINGS	8/24/1999	19M	3/24/2001		3/24/2001	0	3/21/2001	2M	Y	Y	N
A3	N	pub ltr 2 clt 4 exec	2/25/2001	1M	3/25/2001		3/25/2001	0	3/2/2001	0M	Y	Y	N
AS	N	ASSIGNMENT	10/24/2000	6M	4/24/2001		4/24/2001	0	10/25/2000	0M	Y	Y	N
change of corporation name filed													
SC	N	STATUS CHECK	12/27/2001	3M	3/27/2002		3/27/2002	0	3/5/2002	0M	Y	Y	N
12/27: per PTO website; ready for exam - ag													
RE	N	RESPONSE TO OA	2/27/2002	3M	5/27/2002	3	8/27/2002	3	8/27/2002	2M	Y	Y	Y
3/5: rcvd OA; to GMH - ag (dwgs accepted); 8/27: filed Amd & TermDisc - ag													
PC	N	post card/Amd	8/27/2002	1M	9/27/2002		9/27/2002	0	9/11/2002	0M	Y	Y	N
RE	N	RESPONSE TO OA	11/21/2002	3M	2/21/2003	3	5/21/2003	3	5/2/2003	2M	Y	Y	Y
11/26/02: rcvd OA; to GMH (dwgs accepted) - ag; 1/24/03: SSM working on amd - ag													
PC	N	post card/amd	5/2/2003	1M	6/2/2003		6/2/2003	0	5/12/2003	0M	Y	Y	N
SC	N	STATUS CHECK	5/2/2003	4M	9/2/2003		9/2/2003	0	7/17/2003	0M	Y	Y	N
FR	N	FINAL REJECTION	7/15/2003	3M	10/15/2003	3	1/15/2004	3	1/15/2004	2M	Y	Y	Y
7/17/03: rcvd OA; to GMH - ag													
NA	N	NOTICE OF APPEAL	7/15/2003	6M	1/15/2004		1/15/2004	0	1/15/2004	2M	Y	Y	Y
FILED RCE INSTEAD, PER YAN													
PC	N	POST CARD/rceAmd	1/15/2004	2M	3/15/2004		3/15/2004	0	3/12/2004	0M	Y	Y	N
SC	N	STATUS CHECK/rceAmd	1/15/2004	4M	5/15/2004		5/15/2004	0	3/12/2004	0M	Y	Y	N

RE	N	RESPONSE TO OA	3/9/2004	3	M	6/9/2004	3	1	9/9/2004	0	6/8/2004	2	M	Y	Y	Y
3/22/2004: sent to M.Waller via e-m - ag (DWGS ACCEPTED)																
FR	N	FINAL REJECTION	9/8/2004	3	M	12/8/2004	3	1	3/8/2005	3	3/3/2005	2	M	Y	Y	Y
9/14/2004: to GMH/clt via e-m (DWGS accepted) - ag																
NA	N	NOTICE OF APPEAL	9/8/2004	6	M	3/8/2005			3/8/2005	0	3/3/2005	2	M	Y	Y	Y
FILED RCE INSTEAD																
RE	N	RESPONSE TO OA	6/3/2005	3	M	9/3/2005	3	1	12/3/2005	3	12/3/2005	2	M	Y	Y	Y
6/9/2005: OA to clt & GMH via e-m - ag																
TD	y	TERMINAL DISCLAIMER	12/3/2005													
FR	N	FINAL REJECTION	3/9/2006	3	M	6/9/2006	3	1	9/9/2006	3	9/11/2006	2	M	Y	Y	Y
3/14/2006: to clt & GMH via e-m - ag																
NA	N	NOTICE OF APPEAL	3/9/2006	6	M	9/9/2006			9/9/2006	0	9/11/2006	2	M	Y	Y	Y
AB	N	APPEAL BRIEF	9/11/2006	2	M	11/11/2006	5	1	4/11/2007	5	3/15/2007	1	M	Y	Y	Y
re NOA filed 9/11/06																
SC	N	STATUS CHECK?	9/11/2006	6	M	3/11/2007			3/11/2007	0	3/15/2007	0	M	Y	Y	N
2/23/2007: rcvd a NOA dated 10/25/06 (we received 2/19/07): last status showing on PAIR is the mailing of this on 10/25/06; e-m to SUZ to find out what is going on - ag																
	n	PETITION/ABAND	2/27/2007	2	M	4/27/2007			4/27/2007	0	3/15/2007	1	M	Y	Y	Y
3/8/2007: aband note to SUZ w/ prior e-m re Allowance Notice - ag NEED TO FILE PETITION TO WITHDRAW ABANDMENT re we never rcvd the NOA until after the deadline to pay issue fee - ag																
	n	REPLY/DISMISSAL	6/14/2007	2	M	8/14/2007			8/14/2007	0		1	M	Y	Y	Y
SC	N	STATUS CHECK/REVIVE	3/15/2007	6	M	9/15/2007			9/15/2007	0		0	M	Y	Y	N
6/21/2007: rcvd dismissal of pet to SUZ - ag																

INVENTORS
PHILYAW J
MATHEWS DK

ASSIGNEES
DIGITAL CONVERGENCE CORPORATION

PRIOR APPLICATIONS					
REFERENCE#	CNTRY	SERIAL#	FILED	TITLE / DESCRIPTION	TYPE
24669	US	09/378,221	8/19/1999	METHOD AND APPARATUS FOR ACCESSING A REMOTE LOCATION BY SCANNING AN OPTICAL CODE	APPL

USER-DEFINABLE FIELDS		PATENT FIELDS	
ART#	2152	SMALL ENTITY	Yes
CONF	5133	CLAIMS	
PBL#		PUBLICATION#	
		ART UNIT	
		EXAMINER	
		CONFIRM#	

P00002US21	ENTERED	8/19/1999	MODIFIED	6/21/2007 10: BY	sys	ATTORNEYS	GMH	/	JJA	/	GMH
------------	---------	-----------	----------	------------------	-----	-----------	-----	---	-----	---	-----

DECLARATION OF BEVERLEY COLLETTE

My name is Beverley Collette, I am the Office Manager at Howison & Arnott, L.L.P. and have been employed in that capacity for approximately six years and six months. I have first hand knowledge about the process involved in handling and processing incoming mail. I hereby declare that as part of my job duties, I process all incoming mail by picking it up each day from the Post Office, stamping it "Received" with the received on date, and transfer same for further processing to Secretary Carole Rasmussen. In the event I am out of town, this task is assigned to another. We receive all of our PTO correspondence at the P.O. Box address.

In the present case, I noticed that the particular correspondence was received late, as the Post Office had delivered it to the wrong P.O. Box. I brought this to the attention of Mr. Howison immediately.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Full name: **BEVERLEY COLLETTE**

Signature: 

Date: 6/29/07

Residence (City, State): **Dallas, Texas**

DECLARATION OF BEVERLEY COLLETTE

S/N: 09/382,372

Atty. Dkt. No.: PHLY-24,738

DECLARATION OF CAROLE RASMUSSEN

My name is Carole Rasmussen, I am a Secretary at Howison & Arnott, L.L.P. and have been employed in that capacity for approximately three years. I have first hand knowledge about the process involved in handling and processing incoming mail. I hereby declare that as part of my job duties, I process all incoming mail by first receiving same from Office Manager, Beverley Collette. All incoming mail is then scanned within typically one (1) business day for email transfer to the Docket Clerk, Alice Goetsell.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Full name: **CAROLE RASMUSSEN**

Signature: Carole Rasmussen

Date: June 29, 2007

Residence (City, State): **Carrollton, Texas**

Jul 09 07 02:29p

Nancy

1-512-349-6546

p. 1

DECLARATION OF ALICE GOETSELL

My name is Alice Goetsell, I am the Docket Clerk at Howison & Arnott, L.L.P. and have been employed in that capacity for approximately six years and nine months. I have first hand knowledge about the process involved in handling and docketing incoming mail. I hereby declare that as my primary job duty, I process all incoming mail by first receiving same via email from Secretary, Carole Rasmussen. All incoming mail is then entered into the well known docketing system "Patsy," which has been utilized by this firm well before my employment. Once mail has been docketed, it is next "released" and response to same will then be prepared. The normal timeline from receipt to release is approximately two (2) to five (5) days.

In the present case, I received the Notice of Allowance and discussed this with Mr. Howison. The notation was made in the docket system reflecting the situation and the Notice of Allowance was filed electronically in our document management system and an email distributed to all of the staff as to all mail received and docketed that day in accordance with our standard procedure.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Full name: **ALICE GOETSELL**Signature: Date: 6-29-07Residence (City, State): **Austin, Texas**

DECLARATION OF ALICE GOETSELL

S/N: 09/382,372

Atty. Dkt. No.: PHILY-24,738